

**CITY COUNCIL MEETING
January 12, 2012 at 8:30 a.m.**

**CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
COUNCIL CHAMBERS, CITY HALL**

The City Council of the City of Abilene, Texas met in Regular Session on January 12th at 8:30 a.m. in the Council Chambers at 555 Walnut Street. Mayor Archibald was present and presiding with Councilmen Shane Price, Joe Spano, Robert O. Briley, Anthony Williams, Stormy Higgins and Councilwoman Kellie Miller. Also present were City Manager Larry Gilley, City Attorney Dan Santee, City Secretary Danette Dunlap, and various members of the City staff.

Councilman Joe Spano gave the invocation.

Mayor Archibald introduced Aubrianna Salazar a student at Fannin Elementary and Kayla Alardin, a mentor with PALS and a student at Abilene High. Aubrianna and Kayla led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

PROCLAMATION

Mayor recognized Big Brothers Big Sisters for National Mentoring Month; Tim Yandell Executive Director Big Brothers Big Sister accepted the proclamation.

DISPOSITION OF MINUTES

5.0 Mayor Archibald stated Council has been given the minutes from the December 15th regular meeting there being no deletions, no additions, and no corrections. Councilman Price made a motion to approve the minutes as presented. Councilman Williams seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins Councilwoman Miller and Mayor Archibald

NAYS: None

CONSENT AGENDA

Councilman Price pulled item 6.1 from the consent agenda. Citizen Steve Savage asked to pull item 6.2. Councilman Briley made the motion to approve consent item 6.3 with the exception of 6.1 and 6.2 as recommended by staff. Councilman Higgins seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins, Councilwoman Miller and Mayor Archibald

NAYS: None

Bid Award

6.1 **Bid Award** for Hartford Elevated Storage Tank Rehabilitation Project. *Item pulled by Councilman Price.*

Oral Resolutions:

6.2 **Oral Resolution** – Purchase of 2-Chance 2001 trolley buses. *Item pulled by Citizen.*

6.3 **Oral Resolution** – Council approved a contract with Richard J. Leidl, P.C. The estimated annual cost will not exceed \$72,000, plus expenses, and will be funded from various sources.

ITEMS PULLED FROM CONSENT

6.1 **Bid Award** for Hartford Elevated Storage Tank Rehabilitation Project. Councilman Price asked about the inspection of the tank. Rodney Taylor, Assistant Director of Water Utilities explained that the City does its own inspections and staff was aware of the problem when the Texas Commission on Environmental Quality made note of the problem in a routine inspection.

The Texas Commission on Environmental Quality Region 3 performed a routine inspection of the Hartford Elevated Storage Tank (EST) in October 2010. The subsequent inspection report noted an alleged violation for failure to maintain the stability of the Hartford EST. Jacob and Martin, Ltd. (J&M) was contracted to assist the City in resolving that alleged violation. J&M utilized an independent firm specializing in EST design and construction to review prior inspection and geotechnical reports, inspect the condition and displacement of the concrete pier foundations with respect to the structural integrity of the steel tower, and to formulate recommendations for remediation of the problems and prevention of their recurrence.

J&M prepared design plans, specifications and contract documents to implement the recommended repairs. The project includes repairing the tops of the foundation piers, modifying the tank overflow, and grading of the site. Also included are modifying the inlet riser, sandblasting and recoating of the interior of the tank, and recoating the tank's exterior.

The City Council has previously approved CIP Project 8040-03-10 (Elevated and Ground Storage Maintenance) in the 2011-2015 CIP. This project had a budget of \$500,000. The low bid for this project came in at \$701,000. Funding for this entire project will come from the Water Department's "Unrestricted, designated for capital projects" Fund Balance.

Councilman Price made the motion to approve the rehabilitation project for the Hartford Elevated Storage Tank. Councilman Williams seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins, Councilwoman Miller and Mayor Archibald

NAYS: None

6.2 **Oral Resolution** – Purchase of 2-Chance 2001 trolley buses. *Item pulled by Citizen Steve Savage.*

Citizen Steve Savage brought forward several questions and concerns in regards to the current trolleys – he questioned the cost of repairs vs. the cost of the purchase of the 2001 Chance trolleys.

John Pleveich CityLink Manager briefed the council regarding the problems with the 2 current trolleys. One of the problems has to do with the wheel chair lifts the city is unable to get parts anymore.

Council asked staff to contact the company selling the 2001 trolleys to see if they would hold the buses for the city for two weeks until the next council meeting for the time to review the information on the problems of the current trolleys.

Council moved on to the Regular agenda items and asked staff to make calls and get more information during the rest of the council meeting. Council will take up this item at the end of the Regular items.

REGULAR ITEMS

7.1 Danette Dunlap City Secretary briefed the council on the amendment to the Solicitation Ordinance. The current ordinance has been in effect since 1965 and currently does not address hours when solicitation is prohibited, requires a permit fee from charitable groups but not for-profit companies, does not include provisions allowing the posting of “No Soliciting” signs by homeowners and permit appeals are directed to City Council.

Proposed Ordinance

The purpose of the proposed ordinance is to:

1. Protect against criminal activity, including fraud
2. Minimize the unwelcome disturbance of citizens and the disruption of privacy
3. To otherwise preserve the public health, safety, and welfare of citizens by regulating, controlling, and licensing solicitors and peddlers

Preventing fraud and protecting privacy are the two most common public purposes accepted by the Courts when reviewing these types of ordinances.

All provisions of the ordinance must be narrowly tailored to meet those purposes with the least possible restriction of rights.

Proposed Ordinance Definitions

- *Canvasser* means any person whose primary purpose is to enlist support for or against a particular religion, philosophy, ideology, political party, issue, or candidate
- *Peddler* means any person who carries goods, wares, merchandise or personal property with them and offers it for sale for a purely commercial purpose.
- *Solicitor* means any person who takes orders for goods for future delivery, or for services to be performed in the future, including requesting contribution of funds or selling goods or services for a non-commercial purposes

Protect Against Criminal Activity

To meet these purposes the ordinance:

- Requires a permit to engage in peddling or soliciting within the City.
- Allows permit to be denied because of certain convictions, registered sex offenders, or falsified information on application
- Requires the permit to be displayed on their person
- Includes provisions related to solicitation by minors.
- Front door is only permissible entrance

Solicitation by Minors

- Added due to concerns expressed about kids taking orders but not delivering goods.
 - A permit must be obtained by the organization sponsoring any minor solicitation.
 - The sponsor shall be responsible for all minors under the permit.
- Each minor soliciting under the permit must have identification provided by the sponsor that identifies the name of the sponsor

Minimize Unwelcome Disturbance and Disruption of Privacy

To meet this purpose the ordinance:

- Prohibits canvassing, soliciting, or peddling at private residences between the hours of 7 PM and 9 AM
- Prohibit canvassing, soliciting, or peddling at any residence that has a posted “No Solicitation” sign.
- Creates a “Do Not Knock” registry

Other Options Considered

- Prohibiting canvassing, soliciting, and peddling at residences between the hours of 5 PM and 9 AM.
- The US Supreme Court affirmed a decision finding those hours unconstitutional because they are more restrictive than the legitimate privacy interest and quiet enjoyment concerns of the citizens and that the time period was not sufficiently connected to the City’s interest in preventing crime.

Denial of Permit

- Because of a person’s conviction record that is related to the business or results from an assault against a person.
- Falsified information on the application
- Registered sex offender
- The applicant has a permit revoked for any reason within the past three years

Council and Staff discussion included: 1) complaints received; 2) aggressive sellers; 3) No Solicitation signs; 4) Do Not Knock registry; 5) hours allowed between 9 AM and 7 PM; 6) concern over the ending hour due to the darkness during the winter months and the lateness in the summer months; and 7) fee schedule will be brought to council at a later date.

Mayor Archibald opened the public hearing and council heard from the following citizens:

- George Nichols – supports the passage of the ordinance
- Wendell Matthies – supports the passage of the ordinance
- Barbara Hauschild – thankful for the revision
- Steve Savage – wants homeowner to be more proactive
- Jack Mergele – President of the Fairway Oaks Homeowners Association, a very necessary update of this ordinance – would like to exclude Sundays and hours allowed from 10 Am to 6 PM
- Jason Gephart – Suddenlink, would like to delete “Do Not Knock List”, would like to exclude Abilene businesses in the fees
- Ann Brazell – take off the “Do Not Knock List” and have the landowner take responsibility

- Barbara Pittman – thank you for the revision
- Ed McRoy – Cub Scout Pack – concerned with the “Do Not Knock List”
- Dan Symonds – good ordinance doesn’t like the “Do Not Knock List”
- George Nichols – property owners can add to the “No Solicitation Sign” those that are allowed like the Scouts etc.

There being no one else present and desiring to be heard the public hearing was closed.

Council and Staff discussed the following: 1) specific times from 9 a.m. till 7 p.m., looked at adding after dark, using sunset etc; 2) “Do Not Knock List” whether to leave it or take it out and the logistics of the up keep of the list; and 3) fee schedule to come back to council at a later date.

Councilman Briley made the motion to approve the ordinance amending Chapter 28 Solicitation deleting the “Do Not Knock List” and the ordinance will not go into effect until the fee schedule has been approved. Councilwoman Miller seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins, Councilwoman Miller and Mayor Archibald

NAYS: None

Ordinance # 1-2012 and captioned as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE AMENDING CHAPTER 28, “SOLICITATION,” OF THE ABILENE MUNICIPAL CODE AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING

7.2 Jon James Director of Planning and Development Services briefed the city council on the Ordinance for Case #**Z-2011-32**, a request from Shawna Abernathy to rezone property from RS-6 (Single Family Residential) to O (Office) zoning, located at 2526 S 32nd St.

Currently the property is zoned RS-6 and has been developed with a residential dwelling unit. The property is currently vacant. The surrounding properties have been developed with an elementary school to the west, and commercial uses to the south and east including banking and medical office uses.

The Future Land Use section of the Comprehensive Plan designates this general area for residential uses. The applicant intends to redevelop the property for office uses. The properties to the south and east have already been developed for the same purpose. The proposed zoning would provide a transitional zoning buffer to the elementary school to the west and act as a “stopping point” for commercial development along S. 32nd St. The request would not have a negative impact on the surrounding properties and would be compatible with the existing land uses.

Staff recommends approval.

Mayor Archibald opened the public hearing and there being no one present and desiring to be heard the public hearing was closed.

Councilman Price made the motion to approve the ordinance for Case #**Z-2011-32**, a request from Shawna Abernathy to rezone property from RS-6 (Single Family Residential) to O (Office) zoning, located at 2526 S 32nd St. Councilman Higgins seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins, Councilwoman Miller and Mayor Archibald

NAYS: None

Ordinance # **2-2012** and captioned as follows:

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

Location: 2526 S 32nd St.

7.3 Jon James Director of Planning and Development Services briefed the city council on the Ordinance for Case #**Z-2011-33**, a request from Timothy Smith to rezone property from RS-12 (Single Family Residential) to GR (General Retail) zoning, located at 3518 S. 7th St.

Currently the property is zoned RS-12 and has been developed with a commercial building. The property is currently vacant. The surrounding properties have been developed with single family dwellings to the east, north, and south and commercial buildings to the west. The most recent use for the property was an adult day care facility.

The Future Land Use section of the Comprehensive Plan designates this general area for low density residential. The applicant intends to open a fitness facility. The request for GR would also allow for some more intensive uses that are not compatible with the adjacent residential properties. Although this property seems to be suited for commercial uses, a less intensive zoning such as NR (Neighborhood Retail) would be more compatible with the surrounding residential uses.

Planning & Zoning Commission and Staff recommend approval.

Mayor Archibald opened the public hearing and council heard from the following citizens:

- Tim Smith – Owner, Mr. Smith requested the approval and complained about the process of the rezoning of this property.
- Ann Brazell – had concerns for the neighbor that lives next door to the proposed business location.

There being no one else present and desiring to be heard the public hearing was closed.

Councilman Higgins made the motion to approve the ordinance for Case #**Z-2011-33**, a request from Timothy Smith to rezone property from RS-12 (Single Family Residential) to GR (General Retail) zoning, located at 3518 S. 7th St. Councilwoman Miller seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins, Councilwoman Miller and Mayor Archibald

NAYS: None

Ordinance # 3-2012 and captioned as follows:

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS AMENDING CHAPTER 23, SUBPART E, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, CONCERNING PD-137 A PLANNED DEVELOPMENT; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

Location: 3518 S. 7th St

7.4 Jon James Director of Planning and Development Services briefed the city council on the Ordinance for Case **#Z-2011-34**, a request from SMR Acquisitions to rezone property from MD (Medium Density Residential) to NR (Neighborhood Retail) zoning, located at 1774 State St.

Currently the property is undeveloped. The surrounding properties have been developed with residential dwelling units to the north, south, and west and a commercial building to the east along Grape Street.

The Future Land Use section of the Comprehensive Plan designates this general area for low density residential. The request is also part of a thoroughfare closure that would result in the subject property being along an Enhancement Corridor. NR zoning is compatible with residential uses, therefore the request does not seem to have any negative impact on the surrounding properties and is compatible with the surrounding land uses.

Mayor Archibald opened the public hearing and council heard from:

- Terry Hageman – Representative for SMR Acquisitions, requested approval for both items 7.4 and 7.5 a companion item.

There being no one else present and desiring to be heard the public hearing was closed.

Councilwoman Miller made the motion to approve the Ordinance for Case **#Z-2011-34**, a request from SMR Acquisitions to rezone property from MD (Medium Density Residential) to NR (Neighborhood Retail) zoning, located at 1774 State St. Councilman Williams seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins, Councilwoman Miller and Mayor Archibald

NAYS: None

Ordinance # 4-2012 and captioned as follows:

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

Location: 1774 State St.

7.5 Jon James Director of Planning and Development Services briefed the city council on the Ordinance for Case #**TC-2011-04**, a request from SMR Acquisitions to abandon a portion of the north to south alley right-of-way between N. 9th St. and State St. and between Grape St. and Merchant St.

The applicant intends to abandon the subject right-of-way to develop a larger tract of land for a single use. The portion of the alley to be abandoned does not service any residential uses or provide for any refuse collection. There are no improvements on the adjacent properties and the abandonment does not have a negative impact on vehicular or pedestrian maneuverability.

PLAT REVIEW COMMITTEE

The Plat Review Committee recommends approval of the closure as requested with the following conditions:

- Where existing utilities are located, the applicant is responsible for providing adequate easements for the maintenance of all utilities or the applicant will be responsible to move all of the utilities
- Proper fire apparatus access for all structures within the closure area.
- ~~Provide for cul-de-sac turnarounds where the closures will result in a dead end.~~ Was deleted by the Planning & Zoning Commission.
- The applicant must replat within 12 months, at which time all issues regarding access to utilities and relocation of utilities will be resolved. The replat must not create any non-conforming lots

Mayor Archibald opened the public hearing and there being no one present and desiring to be heard the public hearing was closed.

Councilman Spano made the motion to approve the Ordinance for Case #**TC-2011-04**, a request from SMR Acquisitions to abandon a portion of the north to south alley right-of-way between N. 9th St. and State St. and between Grape St. and Merchant St. Councilman Williams seconded the motion, motion carried

AYES: Councilmen Price, Spano, Williams, Briley, Higgins, Councilwoman Miller and Mayor Archibald

NAYS: None

Ordinance # **5-2012** and captioned as follows:

AN ORDINANCE PROVIDING FOR THE ABANDONMENT OF A PORTION OF PUBLIC RIGHT OF WAY; PROVIDING FOR THE TERMS AND CONDITIONS OF SUCH ABANDONMENT, AND CALLING A PUBLIC HEARING.

Location: a portion of the north to south alley right-of-way between N. 9th St. and State St. and between Grape St. and Merchant St

7.6 Jon James Director of Planning and Development Services briefed the city council on the Ordinance for Case #**Z-2011-35**, a request from Harriet Bass to rezone property from RS-12 (Single Family Residential) to RS-12/H (Single Family Residential with Historic Overlay) zoning, located at 3435 S 9th St.

Currently the property is zoned RS-12 and has been developed with a residential dwelling unit. The house, the Jones House, was built in 1940 by Morgan Jones for Morgan Jones Jr. The style of the home

exemplifies the Ranch style of architecture that was prominent during the 1940-1960 era. The ranch house is noted for its long, close-to-the-ground profile, and minimal use of exterior and interior decoration, creating an informal living style. This house embodies many ranch style features; single-story, long, low roofline with a side gable, sliding glass patio doors, large windows, with shutters, and deep overhanging eaves. The Colonial touch at the entrance is expressed with Ionic Greek columns.

The Future Land Use section of the Comprehensive Plan designates this general area as low-density residential. The requested zoning is an overlay zoning that would not affect the underlying residential zoning and would be compatible with the surrounding land uses. One other property in the area has received the overlay, but this request could encourage other properties to seek the Historic Overlay zoning.

Mayor Archibald opened the public hearing and there being no one present and desiring to be heard the public hearing was closed.

Councilman Briley made the motion to approve the Ordinance for Case #**Z-2011-35**, a request from Harriet Bass to rezone property from RS-12 (Single Family Residential) to RS-12/H (Single Family Residential with Historic Overlay) zoning, located at 3435 S 9th St. Councilman Higgins seconded the motion, motion carried

AYES: Councilmen Price, Spano, Williams, Briley, Higgins Councilwoman Miller and Mayor Archibald

NAYS: None

Ordinance # **6-2012** and captioned as follows:

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE

Location: 3435 S 9th Street

7.7 Jon James Director of Planning and Development Services briefed the city council on the Ordinance for Case #**Z-2011-36**, a request from Kelly Thompson to rezone property from RS-8 (Single Family Residential) to RS-8/H (Single Family Residential with Historic Overlay) zoning, located at 1710 Belmont Blvd.

Currently the property is zoned RS-8 and has been developed with a residential dwelling unit. The house, the Rhodes/Connally House, was built in 1941. This house was designed in the Tudor Revival style of the mid 1900's. It embodies the key components of the style: one or two-stories, steep roof, asymmetrical design, cross-gables, decorative half-timbered exterior, arched entryway, quoins in patterned brick cladding and tall chimney with chimney pots. It is a contributing structure to the neighborhood with several other historic homes.

The Future Land Use section of the Comprehensive Plan designates this general area as low-density residential. The requested zoning is an overlay zoning that would not affect the underlying residential zoning and would be compatible with the surrounding land uses. Other properties in the area have recently received the overlay and this request could encourage even more properties to seek the Historic Overlay zoning.

Mayor Archibald opened the public hearing and there being no one present and desiring to be heard the public hearing was closed.

Councilman Williams made the motion to approve the Ordinance for Case #Z-2011-36, a request from Kelly Thompson to rezone property from RS-8 (Single Family Residential) to RS-8/H (Single Family Residential with Historic Overlay) zoning, located at 1710 Belmont Blvd. Councilman Higgins seconded the motion, motion carried

AYES: Councilmen Price, Spano, Williams, Briley, Higgins Councilwoman Miller and Mayor Archibald

NAYS: None

Ordinance # 7-2012 and captioned as follows:

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE

Location: 1710 Belmont Blvd.

7.8 Jon James Director of Planning and Development Services briefed the city council on the Ordinance for revisions to the Land Development Code (LDC) regarding Wind Energy Conversion Systems (WECS).

During the adoption of the Land Development Code (LDC), staff noted that while the ordinance changes at that time allowed for more wind energy systems in the City, it was still fairly restrictive. After additional research on this issue, staff is recommending the attached amendments to clarify some provisions as well as allow these systems in more areas in the City.

Staff is proposing to allow certain WECS's by right in certain zoning district so long as they meet specific regulations to mitigate potential negative impacts. This would, for the first time, allow a qualifying WEC system to be installed with a building permit thus avoiding the need for a special approval or public hearing. WECS's with greater potential for negative impacts would require approval of a Special Exception (SE) by the Board of Adjustment (BOA). The BOA process would provide nearby property owners the opportunity to note their concerns. The Board could then add appropriate conditions if needed or deny installations found to be incompatible, with the area.

STAFF RECOMMENDATION

Staff's originally submitted draft of this ordinance included all zoning districts. The P&Z recommendation removes "residential" zoning districts and districts designed to be in close proximity to residential areas. Staff supports approval of the current proposal. However, we would also support adding additional zoning districts, including allowing these within residential areas with restrictions.

Staff also recommends amending Section 2.3.7.4 j of the P&Z proposal to address braking system concerns raised during the public hearing process.

Staff Recommended Change to P&Z Proposal

Section 2.3.4.7 j

Delete the Current P&Z proposal Text (below)

j. Controls and Brakes.

All wind energy systems shall be equipped with a redundant braking system. This includes both aerodynamic over speed controls (including variable pitch, tip and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over speed protection.

And replace it with the following (below)

j. Controls and Brakes.

- (1) All wind energy conversion systems shall be designed with an automatic over speed control to render the system inoperable when winds are blowing in excess of the speeds for which the machine is designed.
- (2) All wind energy conversions systems shall have a manually operable or electrically dynamic method to render the system inoperable in the event of a structural or mechanical failure of any part of the system including the automatic over speed control.

BOARD OR COMMISSION RECOMMENDATION

On December 6, 2011 the Planning and Zoning commission recommended **approval** of the proposed ordinance 5 -1 (Bixby, Glenn, Yungblut, Todd, Rosenbaum in favor, McClarty opposed).

Major Issues to Regulate

- Where to allow wind energy systems
- Spacing from homes, buildings, other towers, property lines
- Height limits
- Noise limits
- Safety standards, maintenance requirements, abandonment
- Who approves?

Changes

- Cleaned up terms and clarified various provisions
- Approval by
Special Exception
(Board of Adjustment)
instead of
Conditional Use Permit (P&Z and City Council)

- Allowed “by right”
if certain conditions are met:
 - Small (10 kW or less)
 - 45 decibels or less (closer than 300’ to adj. property)
 - 50 decibels or less (if more than 300’)
 - Setback 105% of fall radius from habitable structures, ROW, utility line, or tower
 - Not in floodplain or drainageway
- Abandoned systems (out-of-service more than 6 months) must be removed (was 12 months)
 - Owner can show that it is operational to stop removal process
 - No lot size minimum for small WEC (10 kW or less)
- 5 acre minimum for large WEC (10 kW to 100 kW)
- **Initial Staff Recommendation:** Continue to allow in all districts (subject to requirements and approvals)
- **P&Z Recommendation:** Only in non-residential districts (and excluding “neighborhood” districts)

Council and Staff discussion included: 1) Height limits; 2) less restrictive ordinance from the prior ordinance; 3) more companies coming to town selling; 4) application requires to show screening; and 5) under abandonment section add “By the acceptance of a special exception or building permit the owner/operator grants permission to the City of Abilene to enter the property to remove the wind energy conversion system pursuant to the terms of the special exception and to assure compliance with the other conditions set forth in the permit.”

Mayor Archibald opened the public hearing and council heard from:

- Doyle Dacus, Mr. Dacus brought more industry information in regards to blade colors and types of poles.

There being no one else present and desiring to be heard the public hearing was closed.

Council and Staff discussion included: 1) radio tower height (50ft) and 2) color of blades.

Councilman Price made the motion to approve the revisions to the Land Development Code regarding Wind Energy Conversion Systems as recommended by staff and with the clarification in **Section 2.3.4.7 j**. Councilman Williams seconded the motion, motion carried

AYES: Councilmen Price, Spano, Williams, Briley, Higgins Councilwoman Miller and Mayor Archibald

NAYS: None

Ordinance # 8-2012 and captioned as follows:

AN ORDINANCE AMENDING CHAPTER 23, "PLANNING AND COMMUNITY DEVELOPMENT," SUBPART B, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY AND CALLING A PUBLIC HEARING.

7.9 Megan Santee, Director of Public Works briefed the council on the application/permit to drill and or operate an oil and/or gas well by Bullet Development, LLC: Hantman#1, Permit #72729. All prerequisites and requirements of Chapter 21, Oil and Gas; have been met, including no anticipated adverse effect on the health, safety and welfare of the public.

Staff recommends approval.

Mayor Archibald opened the public hearing and council heard from:

- Larry Wellhausen – was present and available for any questions.

There being no one else present and desiring to be heard the public hearing was closed.

Councilman Briley made the motion to approve the application/permit to drill and or operate an oil and/or gas well by Bullet Development, LLC: Hantman#1, Permit #72729. Councilman Price seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins Councilwoman Miller and Mayor Archibald

NAYS: None

6.2 Council took up the consent item 6.2 for further discussion of the purchase of 2 Chance trolleys.

Council and staff discussion included: 1) staff contacted the seller of the trolleys and the only way that they would continue to hold the trolleys was with a deposit, which the city is unable to do; 2) the current trolleys have broken wheel chair lifts, broken air conditioners and one over heats; 3) the Chance trolleys are from a different company that can take care of parts etc; and 4) heard again from citizen Steve Savage requesting that the city table the item.

Councilman Price made the motion to approve the purchase of the 2 Chance trolleys from Northwest Bus Sales, Inc at a total cost of \$110,000. Councilman Williams seconded the motion, motion carried.

AYES: Councilmen Price, Spano, Williams, Briley, Higgins Councilwoman Miller and Mayor Archibald

NAYS: None

EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session 1:30 p.m. pursuant to Sections 551.071, 551.074, 551.072 and 551.087 of the Open Meetings Act, to seek the advice of the City Attorney with respect to pending and contemplated litigation, to consider the appointment and evaluation of public officers, to consider the purchase, exchange, lease or value of real property, and to discuss contemplated business prospects and or economic development matters.

The Council reconvened from Executive Session at 2:02 p.m. and reported no votes or action was taken in Executive Session in regards to Sections 551.072 Real Property, Councilman Williams left during the Executive Session.

10. Oral Resolution – Discussion and possible action related to annual performance evaluations of City Manager, City Attorney, City Secretary and Municipal Judge.

No action taken.

11. Oral Resolution – Approving the appointment/reappointments to the following Boards and Commissions:

Abilene Housing Authority
Abilene/Taylor County Public Health
Abilene/Taylor Co. Venue District
Airport Development Board
Board of Adjustment
Board of Building Standards
Child Advocacy Advisory Board
Civil Service
Development Corporation of Abilene Inc.
Friends of Safety City
Frontier Texas!
Keep Abilene Beautiful
Landmark's Commission
Library Board
Mayor's Council on Physical Fitness
Office of Neighborhood Services
Planning & Zoning Commission
Youth Advisory Board

No action taken.

There being no further business the meeting was adjourned at 2:02 p.m.

Danette Dunlap, TRMC
City Secretary

Norm Archibald
Mayor